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11 Attorneys for Defendant David Sambol

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

17 IN RE: COUNTRYWIDE FINANCIAL
18 CORP. MORTGAGE-BACKED
SECURITIES LITIGATION

Case No. 11-ML-02265-MRP (MANx)

19 THRIVENT FINANCIAL FOR
20 LUTHERANS et al.

Case No. 11-CV-7154-MRP (MANx)

21 Plaintiffs,

**REPLY MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF DAVID SAMBOL'S
MOTION TO DISMISS THE
AMENDED COMPLAINT**

23 COUNTRYWIDE FINANCIAL
CORPORATION, et al.,

Date: May 17, 2012
Time: 11:00 a.m.
Courtroom: 12
Judge: Hon. Mariana R. Pfaelzer

1 Plaintiff's Opposition does not dispute that the only claims against Mr.
 2 Sambol—for aiding and abetting fraud and negligent misrepresentation—should be
 3 dismissed with prejudice for the reasons stated in the Court's February 17
 4 Dismissal Order. *See Thrivent Financial for Lutherans v. Countrywide Fin. Corp.*,
 5 No. 2:11-CV-07154, slip op. at 10:9-12:20 (C.D. Cal. Feb. 17, 2012) [Dkt. 170].
 6 Plaintiff's only response to Mr. Sambol's motion to dismiss the Amended
 7 Complaint is to “incorporate[] its arguments in opposition to Defendants' previous
 8 motions to dismiss, as well as the arguments in *Allstate II*, . . . for the purposes of
 9 preserving appellate rights.” Opp'n at 2:17-20.¹

10 The Court should dismiss the Amended Complaint against Mr. Sambol with
 11 prejudice. *See Pratts v. Sunjan*, No. 97-55622, 1999 WL 274662, at *1 (9th Cir.
 12 Apr. 23, 1999) (failure to amend deficient claims results in dismissal with
 13 prejudice). In the alternative, the Court should dismiss the Amended Complaint for
 14 lack of personal jurisdiction.

15 Dated: May 4, 2012

Respectfully submitted,

16 ORRICK, HERRINGTON & SUTCLIFFE LLP

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By: _____ /s/ Michael C. Tu
 19 Michael C. Tu

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Attorneys for Defendant David Sambol

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¹ As the Court recently recognized, it is improper for plaintiff to purport to incorporate arguments from *Allstate II* by reference. *See* Minute Order dated April 26, 2012 [Dkt. No. 185].